

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 209**

Introduced by McDonnell, 5.

Read first time January 08, 2021

Committee: Nebraska Retirement Systems

1 A BILL FOR AN ACT relating to retirement; to amend section 84-1504,  
2 Reissue Revised Statutes of Nebraska, and section 48-1401, Revised  
3 Statutes Cumulative Supplement, 2020; to change provisions relating  
4 to treatment of deferred compensation by certain political  
5 subdivisions, state agencies, and the Public Employees Retirement  
6 Board; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-1401, Revised Statutes Cumulative Supplement,  
2 2020, is amended to read:

3 48-1401 (1) Any county, municipality, or other political  
4 subdivision, instrumentality, or agency of the State of Nebraska, except  
5 any agency subject to sections 84-1504 to 84-1506 or section 85-106,  
6 85-320, or 85-606.01, may enter into an agreement to defer a portion of  
7 any individual's compensation derived from such county, municipality, or  
8 other political subdivision, instrumentality, or agency to a future  
9 period in time pursuant to section 457 of the Internal Revenue Code. Such  
10 deferred compensation plan shall be voluntary and shall be available to  
11 all regular employees and elected officials.

12 (2) The compensation to be deferred may never exceed the total  
13 compensation to be received by the individual from the employer or exceed  
14 the limits established by the Internal Revenue Code for such a plan.

15 (3) All compensation deferred under the plan, all property and  
16 rights purchased with the deferred compensation, and all investment  
17 income attributable to the deferred compensation, property, or rights  
18 shall be held in trust for the exclusive benefit of participants and  
19 their beneficiaries by the county, municipality, or other political  
20 subdivision, instrumentality, or agency until such time as payments are  
21 made under the terms of the deferred compensation plan.

22 (4) The county, municipality, or other political subdivision,  
23 instrumentality, or agency shall designate its treasurer or an equivalent  
24 official, including the State Treasurer, to be the custodian of the funds  
25 and securities of the deferred compensation plan.

26 (5) The county, municipality, or other political subdivision,  
27 instrumentality, or agency may invest the compensation to be deferred  
28 under an agreement in or with: (a) Annuities; (b) mutual funds; (c)  
29 banks; (d) savings and loan associations; (e) trust companies qualified  
30 to act as fiduciaries in this state; (f) an organization established for  
31 the purpose of administering public employee deferred compensation

1 retirement plans and authorized to do business in the State of Nebraska;  
2 or (g) investment advisers as defined in the federal Investment Advisers  
3 Act of 1940.

4 (6) The deferred compensation program shall exist and serve in  
5 addition to, and shall not be a part of, any existing retirement or  
6 pension system provided for state, county, municipal, or other political  
7 subdivision, instrumentality, or agency employees, or any other benefit  
8 program.

9 (7) Any compensation deferred under such a deferred compensation  
10 plan shall continue to be included as regular compensation for the  
11 purpose of computing the retirement, pension, or social security  
12 contributions made or benefits earned by any employee.

13 (8) Except for sums deferred to designated Roth contributions, if  
14 applicable, any Any sum so deferred shall not be included in the  
15 computation of any federal or state taxes withheld on behalf of any such  
16 individual.

17 (9) The state, county, municipality, or other political subdivision,  
18 instrumentality, or agency shall not be responsible for any investment  
19 results entered into by the individual in the deferred compensation  
20 agreement.

21 (10) All compensation deferred under the plan, all property and  
22 rights purchased with the deferred compensation, and all investment  
23 income attributable to the deferred compensation, property, or rights  
24 shall not be subject to garnishment, attachment, levy, the operation of  
25 bankruptcy or insolvency laws, or any other process of law whatsoever and  
26 shall not be assignable.

27 (11) Nothing contained in this section shall in any way limit,  
28 restrict, alter, amend, invalidate, or nullify any deferred compensation  
29 plan previously instituted by any county, municipality, or other  
30 political subdivision, instrumentality, or agency of the State of  
31 Nebraska, and any such plan is hereby authorized and approved.

1           (12) If a county has not established a deferred compensation plan  
2 pursuant to this section, each individual may require that the county  
3 enter into an agreement with the individual to defer a portion of such  
4 individual's compensation and place it under the management and  
5 supervision of the state deferred compensation plan created pursuant to  
6 sections 84-1504 to 84-1506. If such an agreement is made, the county  
7 shall designate the State Treasurer as custodian of such deferred  
8 compensation funds and such deferred compensation funds shall become a  
9 part of the trust administered by the Public Employees Retirement Board  
10 pursuant to sections 84-1504 to 84-1506.

11           (13) For purposes of this section, individual means (a) any person  
12 designated by the county, municipality, or other political subdivision,  
13 instrumentality, or agency of the State of Nebraska, except any agency  
14 subject to sections 84-1504 to 84-1506 or section 85-106, 85-320, or  
15 85-606.01, as a permanent part-time or full-time employee of the county,  
16 municipality, or other political subdivision, instrumentality, or agency  
17 and (b) a person under contract providing services to the county,  
18 municipality, or other political subdivision, instrumentality, or agency  
19 of the State of Nebraska, except any agency subject to sections 84-1504  
20 to 84-1506 or section 85-106, 85-320, or 85-606.01, and who has entered  
21 into a contract with such county, municipality, political subdivision,  
22 instrumentality, or agency to have compensation deferred prior to August  
23 28, 1999.

24           Sec. 2. Section 84-1504, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26           84-1504 (1) The Public Employees Retirement Board, on behalf of the  
27 state, may contract with any individual to defer a portion of such  
28 individual's compensation or with the Legislative Council to defer any  
29 other amount that the Legislative Council agrees to credit to an  
30 individual's account pursuant to section 457 of the Internal Revenue  
31 Code.

1           (2) The compensation to be deferred at the election of the  
2 individual and any other amount credited on behalf of such individual by  
3 the Legislative Council shall not exceed the total compensation to be  
4 received by the individual from the employer or exceed the limits  
5 established by the Internal Revenue Code for such a plan.

6           (3) The deferred compensation program shall serve in addition to but  
7 not be a part of any existing retirement or pension system provided for  
8 state or county employees or any other benefit program.

9           (4) Any compensation deferred at the election of the individual  
10 under such a deferred compensation plan shall continue to be included as  
11 regular compensation for the purpose of computing the retirement,  
12 pension, or social security contributions made or benefits earned by any  
13 employee.

14           (5) Except for sums deferred to designated Roth contributions, if  
15 applicable, any Any sum so deferred shall not be included in the  
16 computation of any federal or state taxes withheld on behalf of any such  
17 individual.

18           (6) The state, the board, the state investment officer, the agency,  
19 or the county shall not be responsible for any investment results entered  
20 into by the individual in the deferred compensation agreement.

21           (7) Nothing in this section shall in any way limit, restrict, alter,  
22 amend, invalidate, or nullify any deferred compensation plan previously  
23 instituted by any instrumentality or agency of the State of Nebraska, and  
24 any such plan is hereby authorized and approved.

25           (8) On and after July 1, 2010, no employee of the state or any  
26 political subdivision of the state shall be authorized to participate in  
27 a deferred compensation plan unless the employee (a) is a United States  
28 citizen or (b) is a qualified alien under the federal Immigration and  
29 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on January 1,  
30 2009, and is lawfully present in the United States.

31           (9) For purposes of this section, individual means (a) any state

1 employee, whether employed on a permanent or temporary basis, full-time  
2 or part-time, (b) a person under contract providing services to the state  
3 who is not employed by the University of Nebraska or any of the state  
4 colleges or community colleges and who has entered into a contract with  
5 the state to have compensation deferred prior to August 28, 1999, and (c)  
6 any county employee designated as a permanent part-time or full-time  
7 employee or elected official whose employer does not offer a deferred  
8 compensation plan and who has entered into an agreement pursuant to  
9 section 48-1401.

10       Sec. 3.   Original section 84-1504, Reissue Revised Statutes of  
11 Nebraska, and section 48-1401, Revised Statutes Cumulative Supplement,  
12 2020, are repealed.